

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE G. VALDIVIA,

Defendant.

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8:06CR316

**PRELIMINARY ORDER
OF FORFEITURE**

This matter is before the Court on the United States' Motion for Issuance of Preliminary Order of Forfeiture (Filing No. 71). The Court reviews the record in this case and, being duly advised in the premises, finds as follows:

1. The Defendant has entered into a Plea Agreement, whereby he has agreed to plead guilty to Counts I, III, IV, V and VI of said Superceding Indictment. Count I charges the Defendant with one count of possessing with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(b)(1). Count III charges the Defendant with one count of possessing a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c). Counts IV and VI of said Superceding Indictment sought the forfeiture, pursuant to 21 U.S.C., § 853, of \$7,165.00 in United States currency and a 2002 Chevrolet Silverado pickup, VIN 2GCEK19T021198394, on the basis they were used or were intended to be used to facilitate said controlled substance violation and/or were derived from proceeds obtained directly or indirectly as a result of the commission of said controlled substance violation. Count V of said Superceding Indictment sought the forfeiture, pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), of a Lorcin .380 pistol and a Desert Eagle 9mm pistol on the basis they were firearms involved or used in the knowing commission of the offense charged in Count III.

2. By virtue of said plea of guilty, the Defendant forfeits his interest in the subject properties, and the United States should be entitled to possession of said properties, pursuant to 21 U.S.C. § 853, 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c).

IT IS THEREFORE ORDERED:

A. The United States' Motion for Issuance of Preliminary Order of Forfeiture (Filing No. 71) is hereby sustained.

B. Based upon Counts IV, V and VI of the Superseding Indictment and the Defendant's plea of guilty, the United States is hereby authorized to seize \$7,165.00 in United States currency, a 2002 Chevrolet Silverado pickup, VIN 2GCEK19T021198394, a Lorcin .380 pistol and a Desert Eagle 9mm pistol.

C. The Defendant's interest in said properties is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of 21 U.S.C. § 853(n)(1).

D. The aforementioned forfeited properties are to be held by the United States in its secure custody and control.

E. Pursuant to 21 U.S.C. § 853(n)(1), the United States of America forthwith shall publish at least once for three successive weeks in a newspaper of general circulation, in the county where the subject properties are situated, notice of this Order, Notice of Publication evidencing the United States' intent to dispose of the properties in such manner as the Attorney General may direct, and notice that any person, other than the Defendant, having or claiming a legal interest in any of the subject forfeited properties must file a Petition with the court within thirty days of the final publication of notice or of receipt of actual notice, whichever is earlier.

F. Said published notice shall state the Petition referred to in Paragraph E., above, shall be for a hearing to adjudicate the validity of the Petitioner's alleged interest in the properties, shall be signed by the Petitioner under penalty of perjury, and shall set forth the nature and extent of the Petitioner's right, title or interest in the subject properties and any additional facts supporting the Petitioner's claim and the relief sought.

G. The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the properties subject to this Order as a substitute for published notice as to those persons so notified.

H. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C. § 853(n), in which all interests will be addressed.

DATED this 6th day of February, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge